

PATENT
0091-0207P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Derek Gordon WHITAKER
Appl. No.: New Group: UNASSIGNED
Filed: December 18, 2001 Examiner: UNASSIGNED
For: SHAPE CONFORMING SURFACE COVERING

PETITION FOR FILING BY ASSIGNEE

Commissioner for Patents
Washington, D.C. 20231

April 10, 2002

Dear Sir:

Applicant, FLEXITEEK INTERNATIONAL AS, hereby petitions the Commissioner to accept the filing of the above-identified U.S. Patent Application by it, as the party to which the invention disclosed and claimed in said Patent Application rightfully belongs, and on behalf of and as agent for the inventor.

The name and address of the inventor refusing to join in this application is as follows:

Derek Gordon Whitaker
29 Welwick Road, Patrington
East Yorkshire, HU12 Orp
ENGLAND

The invention was developed under the authorization of FLEXITEEK INTERNATIONAL AS. (hereinafter "FLEXITEEK INTERNATIONAL") by Derek

Gordon Whitaker of East Yorkshire, HU12 Orp, England, who was employed by FLEXITEEK INTERNATIONAL to do so.

Upon information and belief, based on the precedent which will be discussed below, FLEXITEEK INTERNATIONAL is entitled to clear title to the invention and to the above-identified patent application and any patent which issues thereon.

The Supreme Court of the United States in Solomons v. United States, 137 U.S. 342, 346 (1890), held:

If one is employed to devise or perfect an instrument, or a means for accomplishing a prescribed result, he cannot, after successfully accomplishing the work for which he was employed, plead title thereto as against his employer. That which he has been employed and paid to accomplish become, when accomplished, the property of his employer. Whatever rights as an individual he may have had in and to his inventive powers, and that which they are able to accomplish, he has sold in advance to his employer.

It is clear that an employee who is paid to develop an invention comes within the scope of the language cited.

Since Whitaker was employed by FLEXITEEK INTERNATIONAL, that is, paid compensation to develop a shape conforming surface covering, this invention belongs to FLEXITEEK INTERNATIONAL and the inventor who contributed to the development of the device has a duty to assign the invention, patent application, and any patent which issues thereon to FLEXITEEK INTERNATIONAL and upon direction of FLEXITEEK INTERNATIONAL execute an application therefor.

Since Whitaker refuses to sign the Declaration, FLEXITEEK INTERNATIONAL is believed to be entitled to make such application on behalf of and as agent for the inventor pursuant to 37 C.F.R. 1.47(b).

The required fee of \$130.00 pursuant to § 1.17(h) is enclosed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 

Michael K. Mutter, Reg. No. 29,680

P.O. Box 747
Falls Church, VA 22040-0747

(703) 205-8000

MKM/CTB/mpe

Attachment: Decision of District Court of Stockholm